<center>REMARKS</center>

The present application was filed on February 24, 2004, with claims 1-19, all of which remain pending. Claims 1, 16 and 19 are the independent claims.

Claim 19 is rejected under 35 U.S.C. §101 as being directed to non-statutory functional descriptive material.

Claims 1-3, 6 and 9-19 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2005/0152354 (hereinafter "Abel").

Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Abel in view of U.S. Patent Publication No. 2003/0128687 (hereinafter "Worfolk").

Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Abel in view of U.S. Patent No. 6,553,035 (hereinafter "Schwartz").

In this response, Applicants have amended independent claims 1, 16 and 19 without prejudice solely in order to expedite prosecution of the application. Applicants respectfully request reconsideration of the present application.

Regarding the §101 rejection of claim 19, Applicants respectfully traverse on the ground that the originally-recited article of manufacture comprising a machine-readable medium storing one or more programs, which when executed by a processor implement one or more steps producing a concrete, useful, and tangible result, constitutes a proper claim of statutory subject matter rather than "nonstatutory functional descriptive material." See, e.g., In re Beauregard, 53 F.3d 1583; 35 USPQ2d 1383 (Fed. Cir. 1995); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Notwithstanding the traversal, Applicants have amended independent claim 19 without prejudice, solely in order to expedite prosecution of the application by conforming the claim to the preference indicated by the Examiner.

With regard to the §102(e) rejection, Applicants initially note that MPEP §2131 specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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Applicants have amended claim 1 so as to clarify the subject matter claimed. The claim as amended now recites that at least a first one of the participating nodes receiving one of the parts routes at least a portion of its received part to at least a second one of the participating nodes receiving another one of the parts. Support for this amendment may be found in the present specification at, for example, page 5, lines 28-29; page 6, lines 13-19 and 23-25; and page 8, line 22, to page 9, line 2.

Applicants respectfully submit that Abel fails to teach or suggest at least this limitation of claim 1 as amended. It is noted in this regard that in formulating the §102(e) rejection the Examiner characterizes the network processors 110-1 to 110-4 in FIG. 2 of Abel as corresponding to the recited participating nodes. See the Office Action at page 4, last paragraph. However, it is apparent from FIGS. 1 and 2 in Abel that none of the network processors 110-1 to 110-4 route any portion of their respective received parts to one another. Accordingly, Abel fails to meet the limitations of independent claim 1 as amended.

Independent claims 16 and 19 have been amended in a manner similar to independent claim 1, and are thus believed allowable for at least the reasons identified above with regard to independent claim 1.

Dependent claims 2-15, 17 and 18 are believed allowable for at least the reasons identified above with regard to the independent claims from which they depend. Moreover, one or more of these claims defines separately patentable subject matter.

For example, dependent claim 13 recites a limitation "wherein if the packet header of a given packet in the part of the flow received by a given one of the participating nodes indicates that the participating node is a final destination node for that packet, the packet is stored in a resequencing buffer of the participating node." The Examiner contends that this limitation is met by Abel at paragraph [0056], which discloses that a "[f]low bucket identifier is used as an index in balance history memory 215 to access balance history that is used by packet queue and dequeue unit 265 to determine whether a processed packet has to be transferred to outgoing port 130-*j* or needs to be memorized in packet memory 255. Flow bucket identifier is also used as an index to store packet pointer in queue pointer memory 280 when a processed packet needs to be stored in or retrieved from packet memory 255."
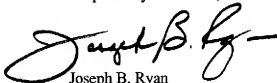
Applicants respectfully submit that the relied-upon portion of Abel fails to teach the limitation of claim 13 wherein a packet is stored in a resequencing buffer of a participating node if a

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packet header of that packet indicates that the participating node is a final destination node for that packet. To the contrary, Abel appears to teach away from the limitation at issue by teaching an arrangement in which a packet is temporarily stored in packet memory 255 within sequenced load balancer 100 prior to being eventually transmitted to another node. See also Abel at paragraph [0057].

As another example, dependent claim 14 recites a limitation "wherein if the packet header of a given packet in the part of the flow received by a given one of the participating nodes indicates that the participating node is not a final destination node for that packet, the packet is stored in a particular one of a plurality of output queues of the participating node that is associated with the final destination node for the packet." The Examiner again relies on the teachings in paragraph [0056] of Abel. However, this portion of Abel fails to meet at least the aspects of claim 14 relating to a packet header indicating if a participating node is not a final destination node, and storage of the corresponding packet by the participating node in a particular output queue associated with the final destination node.

In view of the foregoing, Applicants believe that claims 1-19 as amended are in condition for allowance, and respectfully request withdrawal of the present rejections.

Respectfully submitted,

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